

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-155

November 22, 2000

PUBLIC ADVOCATE'S OFFICE
Request for Waiver of Part IV of
Chapter 204 and Order Transferring
All Circle Calling Plan Customers to
Pine Tree State

ORDER GRANTING
WAIVER AND DISMISSING
REQUEST FOR ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

In this Order we grant a waiver to all incumbent local exchange carriers, except for Saco River Telegraph and Telephone Company (Saco River), from the Circle Calling Plan requirement of Chapter 204. We also dismiss the Public Advocate's request for further action because the request has become moot.

Part IV of Chapter 204 of our rules (Basic Service Calling Areas) requires carriers to provide an optional "Circle Calling Plan" for residential customers. Circle Calling is a discount interexchange service providing discounts for all exchanges that are not within the caller's basic service calling area (BSCA), but which are within 30 miles of the caller's home exchange. The rule recognizes that telephone utilities may also offer additional residential optional interexchange calling plans. Pursuant to the Rule, Verizon-Maine (and its predecessors) and the other Maine ILECs (also known as independent telephone companies or ITCs) have offered a Circle Calling Plan. The ILECs offer interexchange service either directly (Verizon and Saco River) or through arrangements with Verizon.

Recently, Verizon changed its rate structure for Pine Tree State Calling Service (Pine Tree), which is a statewide interexchange discount plan. Under the previous version of Pine Tree, certain hours of each weekday were excluded. During those periods, undiscounted Message Toll Service (MTS) rates applied. With the elimination of the hours during which Pine Tree rates did not apply, the rates for Pine Tree Service became lower than those for Circle Calling at all times. As a result of this change, with the Commission's knowledge, Verizon-Maine moved customers from Circle Calling to Pine Tree.

Pursuant to the agreements with the ITCs (other than Saco River Telegraph and Telephone Company), Verizon provided customers in ITC service areas with both Circle and Pine Tree Calling. On February 24, 2000, the Public Advocate filed a request asking the Commission to waive the Circle Calling requirement for Verizon and the ITCs

in whose service areas Verizon provides Circle Calling, and to order the ITCs to transfer their customers from Circle Calling to Pine Tree service.

In a recent letter, the Telephone Association of Maine (TAM), which represents the ITCs, stated that all of the ITCs (except Saco River, as explained below) have made the necessary billing system changes to move Circle Calling customers to Pine Tree Service and have, in fact, moved them. Accordingly, an order requiring the ITCs to transfer customers is now unnecessary, and we therefore dismiss that request by the Public Advocate as moot. Verizon has removed Circle Calling from its rate schedules and terms and conditions (tariff).¹ Because the ITCs (other than Saco River) have designated Verizon-Maine as their interexchange toll carrier, the elimination of Circle Calling from Verizon's tariff effectively eliminates the service from ITCs' offerings as well.

Pursuant to Chapter 204, Part VIII and Chapter 110, § 103, we grant a waiver from the requirement of Part IV of Chapter 204 that Verizon-Maine and the independent telephone companies other than Saco River Telegraph and Telephone Company provide a Circle Calling Plan. We grant the waiver because the present pricing and rate structure for Pine Tree Calling is always better for residential consumers than the pricing for Circle Calling. Should this situation change, we will review whether a waiver is still appropriate.

We do not grant a waiver for Saco River Telegraph and Telephone Company. Saco River Telegraph & Telephone Company has a calling plan named "Blockbuster" that meets the circle calling requirements of Part IV of Chapter 204. However, the per-minute rates for Blockbuster are lower than those for Saco River's Maine State Calling Service, which has rates that are identical to Verizon's Pine Tree State Service. In addition, like the previous version of Pine Tree, Maine State Calling Service is not available during certain hours on weekdays. Thus, within a 30-mile radius of a subscriber's exchange, or during the hours that Maine State Calling Service is not applicable, Blockbuster provides a lower per-minute rate and may, for some customers, result in an overall lower toll-calling bill, even though Blockbuster customers must purchase a minimum of two hours of the service, whereas the Maine State customers must purchase only one hour.

We also do not grant any general waiver of the Circle Calling requirement for any carrier other than the incumbent local exchange carriers expressly covered by this

¹*Bell Atlantic-Maine, Proposed Tariff Revision to Eliminate the Call Around Circle Calling Service*, Docket No. 2000-479.

Order, as such a waiver is beyond the scope of the Public Advocate's request.²

Dated at Augusta, Maine, this 22nd day of November, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

²We may find it necessary in our Inquiry that is now reviewing the BSCA rule (Docket No. 2000-752), or in a subsequent rulemaking, to address whether the Rule should apply to competitive local exchange carriers (CLECs) and whether the Circle Calling requirement should apply to all carriers that provide interexchange service. Chapter 204 states that it applies to "all telephone utilities," although most of the Rule's requirements apply to "LECs." We do not know how competitive interexchange carriers provide either a circle calling plan or a statewide calling plan, or the relative rate relationships between such plans.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.